

SAMPLE NOTICE OF PENDING CUSTODY PROCEEDING

CAUSE NO. _____

IN THE INTEREST OF	§	IN THE DISTRICT COURT OF
	§	
	§	
_____ ,	§	_____ COUNTY, TEXAS
	§	
(A) CHILD(REN)	§	_____ JUDICIAL DISTRICT

**NOTICE OF PENDING CUSTODY PROCEEDING
INVOLVING INDIAN CHILD**

TO: [INDIVIDUAL OR TRIBE - List each Tribe entitled to notice here, in order to give notice of all potential tribes identified to date]

TAKE NOTICE that a Suit Affecting the Parent-Child Relationship of [child's name] has been filed in the District Court of [county] County, Texas, by the Texas Department of Family and Protective Services. A copy of the petition is attached to this notice (**Attachment 1**).

1. A hearing is scheduled to be heard on the [date] day of [month], [year], at [time] o'clock [a/p].m. before the Honorable Judge [judge's name] in their Courtroom at the [county] District Courthouse, [city], Texas. The address of the Court is [address] and the telephone number of the Clerk of Court is [phone].

2. [SELECT ONE]

Child's Indian Status Not Verified

[Based on information detailed on the **Indian Child & Family Questionnaire (Attachment 2)**, it is believed the child who is the subject of this proceeding may be a member of, or eligible for membership in a federally-recognized Indian tribe and the biological child of a member. Since the child's legal status in regard to the Indian Child Welfare Act is uncertain, we are unable to properly plan for the child in the absence of the information requested. Please respond within fifteen days of receipt of this Notice to confirm or deny the child's Indian child status or to advise as to the time needed to conclude the necessary research.]

[OR]

Child's Indian Status Verified

[The child who is the subject of this proceeding is believed to be a member of , or eligible for membership in a federally-recognized tribe and the biological child of a member, based on the information detailed on the **Indian Child & Family Questionnaire (Attachment 2).**]

3. The Petitioner in this proceeding is the Texas Department of Family and Protective Services, represented by **[attorney's name]**, who can be contacted at **[address & phone]**.

YOU HAVE SPECIAL RIGHTS UNDER THE INDIAN CHILD WELFARE ACT, 25 U.S.C. § 1921 (a). These rights include the following:

1. The biological parents, Indian custodians, and the child's tribe have a right to intervene at any point in this proceeding.

2. The biological parents, Indian custodians, and the child's tribe have the right to petition the district court to transfer the proceedings to the appropriate tribal court. A petition to transfer may be submitted in writing or may be made orally to the court at the time of the hearing.

3. The hearing on this proceeding cannot be held less than ten days from the time this notice is provided to the parents and tribe.

4. The biological parents, Indian custodians, and the child's tribe have the right to request an additional twenty days to prepare for this hearing. The request may be made by written motion or by calling the court clerk at the number listed above.

5. The biological parents or Indian custodians may be entitled to court-appointed counsel, should they prove unable to afford a private attorney.

6. This notice must be provided to the biological parents, Indian custodians, and the child's tribe with a copy of the petition of this proceeding. The notice must be sent by registered mail, return receipt requested.

7. Take further notice that under the Federal Indian Child Welfare Act, 25 U.S.C. § 1915, there are placement preferences that must be followed in the absence of good cause to the contrary.

8. The tribe is further notified that this matter should be kept confidential.

THE PARENTS, INDIAN CUSTODIANS, AND TRIBE ARE ADVISED THAT THESE PROCEEDINGS MAY HAVE SIGNIFICANT CONSEQUENCES WITH RESPECT TO THEIR RIGHTS INVOLVING THIS CHILD, INCLUDING THE POSSIBILITY OF A LOSS OF CUSTODY OR THE TERMINATION OF PARENTAL RIGHTS.

Respectfully submitted,

Attorney for Petitioner
State Bar No. _____

CERTIFICATE OF SERVICE

I certify that Petitioner's Notice of Pending Custody Proceedings Involving Indian Child was mailed to:

in accordance with the Texas Rules of Civil Procedure on this _____ day of _____, 200__.

Attorney for Petitioner
State Bar No. _____

NOTE: Service should be by registered mail, return receipt requested and a copy of petition must be attached. Attaching a completed Indian Child and Family Questionnaire will facilitate a tribe's confirmation of Indian child status.
